

Pages 1 - 22

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Charles R. Breyer, Judge

UNITED STATES OF AMERICA,

Plaintiff,

VS.

SUSHOVAN TAREQUE HUSSAIN,

Defendant.

NO. CR 16-00462 CRB

San Francisco, California

Friday, February 23, 2018

**TRANSCRIPT OF PROCEEDINGS**

**APPEARANCES:**

For Plaintiff:

ALEX G. TSE

Acting United States Attorney

450 Golden Gate Avenue

San Francisco, California 94102

**BY: ADAM A. REEVES**

**WILLIAM FRENTZEN**

**ASSISTANT UNITED STATES ATTORNEYS**

For Defendant:

KEKER & VAN NEST

633 Battery Street

San Francisco CA 94111

**BY: JOHN W. KEKER**

**JAN NIELSEN LITTLE**

**BROOK DOOLEY**

**ATTORNEYS AT LAW**

Reported By: Jo Ann Bryce, CSR No. 3321, RMR, CRR, FCRR  
Official Reporter

Friday - February 23, 2018

10:39 a.m.

P R O C E E D I N G S

---000---

**THE CLERK:** Calling criminal action CR 16-0462, U.S.A. versus Sushovan Tareque Hussain.

Counsel, please state your appearances.

**MR. REEVES:** Adam Reeves and William Frentzen for the United States. Good morning, Your Honor.

**THE COURT:** Good morning.

**MR. KEKER:** Good morning, Your Honor. John Keker, Jan Little, and Brook Dooley for Mr. Hussain, who is present.

**THE COURT:** Right. Good morning.

So this matter is on for trial obviously on Monday and it will proceed on Monday.

The Court has received two communications, and one I want to -- and I'd like to address them -- from jurors; is that right?

**THE CLERK:** Yes.

**THE COURT:** One communication -- and I should -- would you hand this to counsel so they can take a look at this?

**THE CLERK:** Yes.

**THE COURT:** Let's take a look at the -- one is from Mr. Yencer, and I will deal with Ms. Humphrey in a minute.

(Pause in proceedings.)

**THE COURT:** I would point out that in Mr. Yencer's

1 questionnaire he does point out that it's a hardship for the  
2 reasons essentially the doctor states, but let's deal with it  
3 globally, meaning here's the next one.

4 The next one is from Ms. Humphrey, who has a letter from  
5 her doctor, which says that -- I'm sorry, the letter is from  
6 the doctor, the nurse practitioner. The juror is named Botto  
7 and the letter reads (reading):

8 "Ms. Botto is pregnant with a due date of  
9 August 21st. She's planning to breastfeed her child.

10 Please allow her to defer her jury duty until after she  
11 has delivered and then weaned her baby."

12 I mean, give me a break. I can promise her -- right? --  
13 that she will complete her jury duty well before the due date,  
14 I mean well before the due date. That's not a problem. So I'm  
15 not excusing her unless you see some overriding reason why I  
16 should.

17 **MR. KEKER:** We don't.

18 **MR. REEVES:** I agree, Your Honor.

19 **THE COURT:** Yeah. Okay. So that takes us back to  
20 Mr. Yencer. Do you have any views of Mr. Yencer?

21 **MR. KEKER:** We don't object to excusing him,  
22 Your Honor.

23 **THE COURT:** I think I really should excuse him. I  
24 mean, I feel I should excuse him. You know, again, it's not  
25 a -- I can force him to be here, but it would be forcing him to

1 be here. I mean, I think it's legitimate. What I'm saying is  
2 I think that's a legitimate reason.

3 **MR. KEKER:** Sounds like it.

4 **THE COURT:** And had I thought about it probably with  
5 greater care, I would have excused him.

6 **MR. REEVES:** We agree, Your Honor.

7 **THE COURT:** I didn't think about it with enough care.  
8 But, you know, usually what you have to do -- or not usually,  
9 but sometimes in these cases you actually have to sort of test  
10 how firm their resolve is not to serve on a jury. The only  
11 people who really succeed in that, of course, are lawyers  
12 because they know how firm they can be, as one has already been  
13 excused.

14 So I would grant the request absent an objection.

15 **MR. REEVES:** No objection, Your Honor.

16 **MR. KEKER:** We have no objection, Your Honor.

17 **THE COURT:** Do you have the jury list?

18 **THE CLERK:** Yes.

19 **THE COURT:** Let me bring one thing to the attention of  
20 the parties that I now realize I should have mentioned.

21 It turns out that I know one of the jurors, who I'm not  
22 going to identify. I know one of the jurors in a very remote  
23 way. I knew a person that he was associated with, and I think  
24 that on one occasion in the last 15 to 20 years I may have gone  
25 to his house; but my relationship was, again, through my wife,

1 through a friend, and I didn't recognize this juror and the  
2 name meant nothing but looking at it, I now recognize the name.

3 I don't think that's a basis for excusing this juror. I'm  
4 not telling you the juror's name because I don't know that that  
5 makes any difference. You can convince me -- I don't want to  
6 keep it a secret, but I don't know that it makes any difference  
7 to your determination as to whether it creates a problem. I  
8 guess arguably it could.

9 But I think as soon as I identify this juror -- who I,  
10 again, wouldn't recognize today having met him on one  
11 occasion -- I can say "him" because it's halfway, six men, six  
12 women, something like that -- so I'm -- but if you want me to  
13 handle it differently, I will.

14 **MR. KEKER:** I think it just puts all the more pressure  
15 on you to not lean one way or the other, Your Honor.

16 **THE COURT:** I never feel any pressure like that.

17 I mean, I just --

18 **MR. KEKER:** That's fine.

19 **THE COURT:** I just thought that, you know, this is  
20 going to be a long trial. It's an important trial. People are  
21 devoting tremendous resources on both sides to the trial, and I  
22 just want to make sure that there isn't some sort of  
23 undisclosed issue.

24 **MR. KEKER:** We appreciate it, and we don't have any  
25 objection to that situation, Your Honor.

1           **MR. REEVES:** The Government appreciates it too,  
2 Your Honor. And I'd note that the juror didn't seem to  
3 indicate a --

4           **THE COURT:** I don't even know if that juror knows  
5 me -- I mean, whether that juror actually remembers that we  
6 met. I don't know. It's not that I heard from that juror.

7           **MR. REEVES:** So I think on this record that it would  
8 be fine to continue to proceed with this juror, Your Honor.

9           **THE COURT:** Okay. All right. If it turns out to be a  
10 problem, then it turns out to be a problem.

11           Okay. So now we're starting with -- we're down -- we're  
12 down two?

13           **MS. LITTLE:** Four alternates.

14           **THE COURT:** So we're starting with now four  
15 alternates. We'll see how far we get. In the Shrimp Boy case,  
16 we were down to no alternates.

17           **MR. FRENTZEN:** We came close. I think that's right,  
18 Your Honor.

19           **THE COURT:** We came very close.

20           **MR. FRENTZEN:** Yeah.

21           **THE COURT:** We didn't have to go to the rule of 11.  
22 You know, there's that rule that says once the jury starts its  
23 deliberations, you can proceed with 11 with good cause but you  
24 can't before. I don't know whether you can by stipulation.  
25 From my recollection, there's some case out there that talks

1 about stipulating to fewer than 12 jurors, but let's hopefully  
2 not get to that point.

3 Okay. So those are the sort of things that I wanted to  
4 just bring to your attention. Anything you want to bring to my  
5 attention?

6 **MR. REEVES:** Nothing for the Government, Your Honor.

7 **MR. KEKER:** Yes, Your Honor. We want to talk -- you  
8 just mentioned stipulations. We want to talk about a  
9 stipulation that we're having a great deal of difficulty with  
10 the Government with, and Ms. Little is going to address it.

11 **THE COURT:** Okay.

12 **MS. LITTLE:** Your Honor, the most relevant documents  
13 in this case are documents that were created at Autonomy  
14 obviously and were produced by Hewlett Packard to the  
15 Government and then in turn the Government produced them to us.  
16 I think there's, like, 2 million documents that came from  
17 Hewlett Packard to us is what I've been told, and largely those  
18 are Autonomy documents. A large number of exhibits in this  
19 case are going to be Autonomy documents.

20 We have been trying since last spring to reach a  
21 stipulation with the Government that documents produced by  
22 Hewlett Packard to the Government and then on to us can be  
23 presumed authentic under Rule 901 so we don't have to have some  
24 kind of fight about authenticity.

25 The Government has not been willing to enter into such a

1 stipulation. Initially Mr. Reeves' position was that he wanted  
2 to see the exact documents we were talking about. We said, "We  
3 don't want -- a lot of these are cross-examination documents.  
4 We don't want to give you a preview of our cross-examination."

5 And we have no reason to think that any of these documents  
6 are not authentic. And, in fact, we asked Mr. Reeves, "If  
7 there are particular documents that you have a problem with  
8 that you think are somehow authentic, let's hear about it."  
9 Mr. Reeves could not identify any.

10 We sent the stipulation to the Government again last week,  
11 and again the Government is not willing to stipulate to the  
12 authenticity of these documents produced by HP; and now the  
13 Government is suggesting that there may be some issue about the  
14 provenance of documents or their authenticity, whether they've  
15 been altered in some way. So we don't want to have a 104  
16 hearing on every document in this case.

17 **THE COURT:** No. No, I'm not interested in hearing  
18 what the rationale is.

19 As I understand it, the argument simply is if Hewlett  
20 Packard produced the document, it then is authenticated for  
21 purposes of its -- basically of its origin; that is to say,  
22 this document came from the files of Hewlett Packard. That  
23 would be the stipulation, or kept in the ordinary course of --  
24 well, I don't know about that.

25 I mean, if X sends a document to Hewlett Packard, so a



1 letter, as an example, Jones sends a letter to Hewlett Packard  
2 about the Autonomy transaction, whatever it says, and Hewlett  
3 Packard then has produced this or given it to the Government  
4 and the Government has turned around and given it to you, you  
5 say, "Look, I want to include that document that it's  
6 authentic."

7 **MS. LITTLE:** It is what it purports to be.

8 **THE COURT:** It is what it purports to be, which is a  
9 letter from Jones that was sent to Hewlett Packard period. End  
10 of stipulation.

11 **MS. LITTLE:** And actually the stipulation also had a  
12 clause that we proposed that said "Any party, you know, has the  
13 option if there is a serious issue, that can be contested."  
14 You know, there's a carve-out if there's an issue.

15 **THE COURT:** There's a carve-out. So, in other words,  
16 if suddenly you get to something and it seems that,  
17 notwithstanding the fact that it was a letter that would come  
18 from -- that came from Hewlett Packard, it was inserted in the  
19 files of Hewlett Packard by somebody other than somebody  
20 conducting in the ordinary course of business. It's let's sort  
21 of put in a poison pill or something that is inauthentic. Like  
22 now let's put in -- an example might be a balance sheet where  
23 suddenly somebody sends for some reason or another a balance  
24 sheet, a statement of assets, whatever it is, to Hewlett -- or  
25 Hewlett Packard comes across this because somebody sent it to

1     them, and they sent it to them for the purpose of, let's take  
2     the worst case, sort of inserting it in the litigation to say,  
3     "Ah ha, Hewlett Packard knew about this all the time. Look.  
4     Look at its files. It had this. It had this information."

5             **MS. LITTLE:** To our knowledge, there's no such --

6             **THE COURT:** Well, no, I'm making it up. Obviously I'm  
7     making it up.

8             I'm trying to figure out the Government's position  
9     because, as I understand the proposal, is that would be carved  
10    out. If there's some reason to believe that this document is  
11    other than what it purports to be, that will be the subject of  
12    a separate inquiry.

13            **MS. LITTLE:** I can show you the --

14            **THE COURT:** So you wouldn't be authenticating that.

15            **MS. LITTLE:** I can show you the proposed stipulation  
16    if you like.

17            **THE COURT:** Okay.

18            **MR. REEVES:** Do you have a second copy?

19            **THE COURT:** Okay. So let's try to understand what the  
20    Government's position is. Let me take a moment and read it.

21                           (Pause in proceedings.)

22            **THE COURT:** So what's wrong with this? Mr. Reeves,  
23    what's wrong with this stipulation?

24            **MR. REEVES:** Well, there are a number of things that  
25    are wrong with it, Your Honor.

1           **THE COURT:** Okay. Let's start with the first.

2           **MR. REEVES:** Okay. I think the Court has immediately  
3 identified conceptually one to have the major problems here,  
4 which is that Hewlett Packard comes into the possession of all  
5 kinds of documents that may or may not be authentic.

6           What Hewlett Packard or a custodian could say is that we  
7 had it in our files and gave it to the Government. That, I'm  
8 not certain, is the same thing as authenticating all documents.  
9 So that's point number one.

10          **THE COURT:** Well, wait, let's start with point number  
11 one because I'm not quite sure I understand point number one.

12          Why isn't point number one addressed by paragraph two of  
13 the stipulation?

14          It says, "Notwithstanding the presumption" -- it's a  
15 presumption that it was authentic -- it's authentic -- "a party  
16 against whom a document is offered, may introduce affirmative  
17 evidence that the document is not authentic."

18          Now, you say, "Oh, but that puts the burden on the  
19 Government to do that," and isn't the burden always on the  
20 Government to do that? I mean, how is it not?

21          **MR. REEVES:** I'm not sure that's correct, Your Honor.

22          **THE COURT:** Okay. You're saying it's not correct  
23 because if the Defense offers a document, the burden is on them  
24 to show that it's authentic? All they want to do is say, if I  
25 understand them correctly, this piece of paper came out of the

1 files of Hewlett Packard. That's actually true. You don't  
2 deny that, do you?

3 **MR. REEVES:** We would stipulate to that.

4 **THE COURT:** Pardon?

5 **MR. REEVES:** I'm not sure that makes all documents  
6 authentic. I'm happy to stipulate that X documents came from  
7 Hewlett Packard. That does not, in my judgment, satisfy the  
8 authenticity requirements of the rule, Your Honor.

9 And I think there's a -- so if I can expand on this a  
10 little bit.

11 **THE COURT:** No, go ahead. Go ahead.

12 **MR. REEVES:** Starting at the beginning, I disagree  
13 with counsel's characterization of this negotiation.

14 **THE COURT:** I don't care about the characterization.  
15 Look, I am so beyond characterizations that you don't have  
16 to -- you don't have to respond to the characterization. I'm  
17 not accepting the characterization. I'm looking at something  
18 and saying, is this a good idea from a trial point of view? Is  
19 this going to save time? Is it going to reduce the number of  
20 witnesses or is it not? I don't care who proposed it, who  
21 rejects it, who accepts it. None of those things matter.

22 This is personality neutral. It's advocacy neutral. It's  
23 a big zone of everybody's great and I just want to get the idea  
24 of what we're doing here.

25 **MR. REEVES:** I don't think it's going to save any

1 time. I don't see a reason why this case should be different  
2 from any other case. I've asked for examples of a so-called  
3 blanket stipulation in the past. They have not provided one,  
4 and I'm not aware of one.

5 **THE COURT:** Well, I'll tell you one reason. There are  
6 2 million reasons why this case is different from every other  
7 case. I don't have a case in which there generally are  
8 2 million documents that I have to deal with. So this is  
9 different.

10 You know, like it matters, that matters, and I'm just  
11 looking at something and trying to figure out is there a  
12 reason, is there a reason, a good reason, or even a bad reason  
13 why we shouldn't have an acknowledgment by the Government that  
14 these documents were at least -- well, you're saying you're  
15 willing to agree that they came from the files of  
16 Hewlett Packard. What you're not willing to do is for the  
17 purposes of 902 or 903 --

18 **MS. LITTLE:** 901 simply says that, you know, a  
19 document is what it purports to be.

20 **MR. REEVES:** But that's the issue. We're willing to  
21 stipulate that we got the documents from Hewlett Packard.  
22 Whether it is what it purports to be is an open question. What  
23 do I mean by that?

24 **THE COURT:** Yeah, what do you mean by that?

25 **MR. REEVES:** I mean that there is clear evidence in

1 our investigation of an effort to possibly destroy or obtain  
2 certain of the Autonomy documents. So that -- I think the  
3 Autonomy documents as a subset of the overall documents  
4 produced by HP, we have some questions about their blanket  
5 reliability. We'll be introducing --

6 **THE COURT:** Well, authentication doesn't say whether  
7 they're reliable or not, does it? It just says that they are  
8 what they -- they are -- can't you have a false document that  
9 is otherwise authenticated?

10 In other words, if I go -- let's say I'm a defendant and I  
11 create a false balance sheet. Is that not authenticated if it  
12 comes from files X? It is a balance sheet. Whether it's true,  
13 when it was obtained, how it was produced all are questions  
14 that may go to the document, but I don't know that it goes to  
15 anything further than what weight to give to the document or  
16 maybe even admissibility.

17 This doesn't -- this doesn't say they're admissible. This  
18 simply says that they don't have to bring in Hewlett Packard to  
19 say that they came from Hewlett Packard. You say you're  
20 willing to agree to that.

21 **MR. REEVES:** Okay. I've seen this play out in this  
22 courtroom in other cases in a very routine way where any number  
23 of documents that the witnesses have some exposure to or some  
24 familiarity to, even if there are questions, are received into  
25 evidence, are subject to the testimony, and I see no reason why

1 that can't be precisely the process that we follow here.

2 What I am concerned about is the introduction or the use  
3 of documents that don't have sponsoring witnesses, that don't  
4 have any connection to the trial testimony, and that can create  
5 real problems.

6 So a stipulation like this begins to invite sort of the  
7 introduction of documents that have no context, and I'm not  
8 exactly certain how or when or where that would happen, but I  
9 see this as a -- essentially as a mechanism for eventually  
10 introducing documents that are disconnected to the testimony of  
11 the trial. And --

12 **THE COURT:** Are you willing to concede that if a  
13 document -- if a witness gets up or the lawyer gets up and  
14 says, "Here is Exhibit 602. This document comes from the files  
15 of Hewlett Packard," are you willing to concede that that's  
16 done? You'll stipulate to that?

17 **MR. REEVES:** I will stipulate that the documents we  
18 got from Hewlett Packard we got from Hewlett Packard.

19 **THE COURT:** Ah, okay. You're not conceding its  
20 admissibility. You're just saying they don't have to come in  
21 and bring somebody from Hewlett Packard.

22 **MR. REEVES:** They don't have to do that, Your Honor.  
23 Will that solve the problem?

24 **THE COURT:** If that's as good as it gets, that's fine.  
25 I think that's what it says, by the way.

1           **MS. LITTLE:** Yeah.

2           **THE COURT:** So, I mean --

3           **MR. REEVES:** We will modify it to make certain it says  
4 that, but we will stipulate to that, Your Honor.

5           **MS. LITTLE:** Good. I think that should take care of  
6 it.

7           **THE COURT:** Thank you.  
8 Okay. Any other problems?

9           **MR. REEVES:** Nothing for the Government.  
10 I had one question -- oh, I'm sorry.

11           **MR. DOOLEY:** We have another issue -- a couple of  
12 issues.

13           **THE COURT:** Do you want to address your question?

14           **MR. REEVES:** It's about scheduling. It can wait until  
15 the end.

16           **THE COURT:** All right. Let's wait.

17           **MR. DOOLEY:** One witness question, Your Honor. In the  
18 most recent witness list filed by the Government, they identify  
19 a, quote/unquote, F.R.C. witness, which I take to be a witness  
20 from the Financial Reporting Council in England, but they've  
21 not identified the name of the witness and we've asked about  
22 that, and we'd like to ask again in this context the specific  
23 name of the F.R.C. witness that the Government intends to call.

24           **MR. REEVES:** We don't have the name yet, Your Honor.

25           **THE COURT:** You don't have the name of the person?



1           **MR. REEVES:** No. We have been in dialogue with the  
2 lawyers.

3           **THE COURT:** When will you know this person?

4           **MR. REEVES:** We've asked for it repeatedly at this  
5 point, but I don't know. I'm hopeful that we'll know it soon;  
6 and as soon as we know it, I'm happy to convey it to counsel.

7           **MR. DOOLEY:** That's fine, Your Honor.

8           **MR. KEKER:** Your Honor, I wanted to raise, not for you  
9 to do anything about it today necessarily, but just to alert  
10 you to what I see as a problem in the evidence as we go  
11 forward; and that is, the Government has identified in  
12 Docket Number 71, 13 people that it claims are co-conspirators  
13 in the conspiracy charged in the Indictment. We challenge that  
14 there is a conspiracy. We challenge that these people are  
15 co-conspirators. We challenge the whole thing.

16           When somebody gets up and we say "hearsay" as an objection  
17 and they say "co-conspirator exception," then that's going to  
18 raise a host of issues.

19           I mean, one is does this person properly belong even in  
20 the conspiracy that they think they're proving? Because we  
21 think some of the people are completely absurd.

22           And then, second, what conspiracy are they talking about  
23 that this person might -- anyway, all those foundational  
24 issues. And I just wanted to raise them with you because I  
25 think that's going to come up.

1           **THE COURT:** Well, I'm sure it's going to come up  
2 because it comes up in any basically large-scale trial, and  
3 what judges traditionally do is they allow it in subject to a  
4 motion to strike.

5           I don't see why I would do it any differently here. I  
6 understand that -- unless I see -- you know, unless it's clear  
7 at the outset, there simply isn't a conspiracy here and there's  
8 no way they can prove a conspiracy. I mean, that can happen.  
9 The Government can charge anything and that can happen.

10          But absent that, I don't think I would force them to prove  
11 the conspiracy in advance of allowing the statement to be  
12 received into evidence because it becomes an impossible sort of  
13 chicken-and-egg very, very difficult situation to deal with.

14           **MR. KEKER:** And we anticipate --

15           **THE COURT:** I actually think you sort of preserve your  
16 argument anyway given -- you know, given how the case unfolds.  
17 I mean, if the case unfolds and it becomes clear to the Court  
18 that there is no there there, which is your argument, then the  
19 Court considers, you know, what, if anything, should be done  
20 with respect to any or all of the statements that are admitted.

21          Putting it another way, while I would understand that a  
22 defendant would prefer the former rather than the latter, the  
23 benefit the defendant gets from that -- from the way that at  
24 least I perceive, is that by a failure of proof, they  
25 jeopardize the entire case.

1       You see, because it can happen, and I think it has  
2 happened in cases that I've had over 21 years now where I  
3 simply look at it and say that the case is fatally infected by  
4 the statement. You can't really unring -- you can unring a  
5 number of bells but you can't unring the carillon. I mean, if  
6 you have enough bells going off, you're not going to -- you're  
7 going to be -- it's going to become very difficult to unwind  
8 the situation.

9       So that's the risk the Government's at. Now, you know,  
10 like, hey, nothing's perfect. You know, I'm sorry but trials  
11 are imperfect things and there has to be somebody going first  
12 and second, so I don't -- I mean, I'm glad you raised it, but I  
13 want to reduce your expectations, if you have them --

14       **MR. KEKER:** And I appreciate --

15       **THE COURT:** -- and I'm not saying don't object. I'm  
16 just saying --

17       **MR. KEKER:** Because we have to.

18       **THE COURT:** I think you have to.

19       **MR. KEKER:** I think we have to.

20       And I guess what I wanted to say is that this is -- I  
21 mean, if it's a drug case, then everything they're talking  
22 about is about drugs and it's all illegal, and so on.

23       This is -- their position is that the entire business -- I  
24 mean, that their business at Autonomy was part of the  
25 conspiracy. So they have 13 people and they're going to say

1 everything that they said comes in under the co-conspirator's  
2 exception, and I think that raises issues that are unique to  
3 this case.

4 **THE COURT:** We going to have a daily?

5 **MS. LITTLE:** Yes.

6 **MR. KEKER:** Are we going to have dailies?

7 **MS. LITTLE:** Yes.

8 **MR. KEKER:** Yes.

9 **THE COURT:** Okay. So that helps.

10 **MR. KEKER:** That's all that I had, Your Honor.

11 **THE COURT:** Yes, Mr. Reeves?

12 **MR. REEVES:** I just had one inquiry if I could.

13 **THE COURT:** Sure.

14 **MR. REEVES:** The Court has indicated that on  
15 Wednesday, March 28th, it intends to be dark that day.

16 **THE COURT:** March 28th.

17 **MR. REEVES:** March 28th. And as we sort of  
18 anticipate --

19 **THE COURT:** That's a month from now.

20 **MR. REEVES:** It is a month from now, but we have a lot  
21 of travel and scheduling that we've been --

22 **THE COURT:** Why did I say I'm not going to be here on  
23 March 28th, is that your question?

24 **MR. REEVES:** That is my question. Thank you,  
25 Your Honor.

1           **THE COURT:** Why am I not going to be here, Lashanda,  
2 on March 28th?

3           **THE CLERK:** On the 28th --

4           **THE COURT:** Is it Che Pastora day? What is it?

5           **THE CLERK:** CSAG meeting in Washington, D. C., and  
6 JPML in Atlanta.

7           **THE COURT:** There we are.

8           **MR. REEVES:** You'll be traveling?

9           **THE COURT:** I'll be on the road doing the road thing.

10          **MR. REEVES:** Thank you, Your Honor.

11          **THE COURT:** I've got to do the -- I've got to do those  
12 things.

13          **MR. REEVES:** I'm glad to hear that. I hope you have a  
14 nice trip, and we'll plan accordingly.

15          **THE COURT:** I doubt if I'll have a nice trip. I mean,  
16 I may have a nice trip.

17          **MR. REEVES:** Thank you.

18          **THE COURT:** Okay. Anything else?

19          **MR. KEKER:** No, Your Honor.

20          **MR. REEVES:** Nothing for us. Thank you.

21          **THE COURT:** All right. So I just have to figure out  
22 should I excuse -- I think it would be a good idea for me to  
23 excuse that juror that's got the financial issues.

24          **MR. KEKER:** Yes, Your Honor, Mr. Yencer.

25          **THE COURT:** Just notify him --

1           **MR. REEVES:** Mr. Yencer, yes.

2           **THE COURT:** -- so he doesn't show up.

3           **THE CLERK:** Yes.

4           **THE COURT:** And we'll just proceed. Better not to  
5 tell the jurors there's a way out; right? No exit. *Sartre*.  
6 That's it. Nobody can get out of this. We're in the eighth  
7 circle of something.

8           **MR. REEVES:** You'd like us here at 8:45 on the trial  
9 days?

10          **THE COURT:** I'd like that, but it's not -- I mean, I  
11 won't be here until 9:00.

12          **MR. REEVES:** We'll be here at 8:45, Your Honor.

13          **MR. KEKER:** Thank you, Your Honor. See you Monday.

14          **THE COURT:** See you Monday. Looking forward to it. I  
15 am really looking forward to this case. I think it's going to  
16 be interesting, isn't it? You-all promise -- I mean, how  
17 you're going to keep this alive for the jury, you know --

18          **MR. REEVES:** That's why we have Mr. Frentzen.

19          **THE COURT:** Pardon? Okay. Great. Well, we have good  
20 lawyers on both sides, and it should be really interesting.  
21 I'm looking forward to it. So thank you.

22          **MR. KEKER:** Thank you, Your Honor.

23          **MR. REEVES:** Thank you, Your Honor.

24          **MR. FRENTZEN:** Thank you, Your Honor.

25          **THE COURT:** Thank you for being here.

(Proceedings adjourned at 11:08 a.m.)

---oOo---

**CERTIFICATE OF REPORTER**

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

DATE: Wednesday, April 18, 2018

A handwritten signature in black ink, appearing to read "Jo Ann Bryce", is written over a horizontal line.

Jo Ann Bryce, CSR No. 3321, RMR, CRR, FCRR  
U.S. Court Reporter